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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

8 Kristen L. Becker,
9 Plaintiff,

10 vs.

11 Graham County Community College
12 District, *et al.*,
13 Defendants.

No. CIV 24-068-TUC-CKJ

ORDER

DEADLINES

Discovery: 8/18/25
Dispositive Motion: 10/3/25
Pre-Trial Statement/Proposed Order: 11/7/25

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15 Pending before the Court is the Motion to Extend Scheduling Order Deadlines (Doc.
16 37) filed by Plaintiff Kristen L. Becker ("Becker"). Defendant Graham County Community
17 College District, aka Eastern Arizona College ("EAC") has filed a response (Doc. 39) and
18 Becker has filed a reply (Doc. 40).

19 Counsel for Becker states she has recently assumed responsibility for handling this
20 matter and needs additional time to complete fact discovery.¹ Counsel asserts that Becker
21 should not be punished by the unexpected departure of prior counsel; other than assisting
22 in scheduling, counsel indicates she was not previously involved in this case.

23 Counsel asserts Becker's deposition was taken on May 1, 2025, where it was revealed
24 EAC have unproduced emails in their custody. Becker asserts it was this prior lack of
25 disclosure by EAC which has necessitated Becker's need to request the documents. Further,
26 the only date provided by the defense for the deposition of defense witness Kenny Smith
27 ("Smith") is a May date on which counsel is unavailable. Lastly, counsel asserts she will

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¹Counsel filed a Notice of Appearance on March 30, 2025.

1 be in trial on another matter from May 21, 2025, through May 30, 2025; counsel asserts
2 EAC has been aware this trial date made a Smith deposition in May to be implausible.

3 Becker asserts previous extensions were the result of issues belonging to both parties.
4 For example, Becker's previous counsel left the firm, resulting in the unexpected need to
5 consider the schedules of the firm's other attorneys and EAC's request to reschedule Becker's
6 deposition to allow for receipt of discovery responses prior to the deposition. Further,
7 Becker's counsel asserts that one day after her Notice of Appearance, she served discovery
8 documents and served additional discovery documents less than two weeks later.

9 Becker argues the Fed.R.Civ.P. 6(b)(1) good cause standard is to be liberally applied
10 to "effectuate the general purpose of seeing that cases are tried on the merits." *Ahanchian*
11 *v. Xenon Pictures, Inc.*, 624 F.3d 1253, 1258 (9th Cir. 2010); *see also Franklin v. Jimenez*,
12 586 F. App'x 435, 436 (9th Cir. 2014).

13 EAC asserts Becker is seeking a "last minute" extension request and has not
14 diligently pursued discovery in this case. EAC also points out Becker has not complied with
15 this Court's Order regarding extensions of the discovery deadline:

16 The schedule set forth in this Order may only be modified with leave of Court and
17 upon a showing of good cause. See Federal Rule 16(b); *Johnson v. Mammoth*
18 *Recreations, Inc.*, 975 F.2d 604, 607-10 (9th Cir. 1992) (requiring a showing of good
19 cause under Rule 16 to amend complaint beyond the scheduling order deadline).
20 Additionally, any motion for continuance of a discovery deadline, including a
21 stipulation, shall set forth specifically what discovery has been conducted to date, the
22 discovery to be completed, and the reasons why discovery has not been completed
23 within the deadline.

24 August 8, 2024, Order (Doc. 20, p. 6). Specifically, EAC asserts Becker has not detailed
25 what discovery has been conducted to date, the discovery to be completed, and the reasons
26 why discovery has not been completed within the deadline.

27 Regarding the status of discovery, EAC states the parties have exchanged initial and
28 supplemental disclosure statements, EAC has served, and Becker has responded to, written
discovery requests, and EAC has deposed Becker. Additionally, when EAC proposed a date
for the deposition of Smith, Becker responded she was not available, but did not propose
any alternate dates. However, counsel for Becker stated in an April 28, 2025, email her

1 interest in discussing availability on May 1, 2025, at the time of Becker's deposition;
2 additionally, although an April 23, 2025 email requested *dates* of availability, EAC
3 proposed only one date of availability. The response indicates EAC agrees to schedule
4 Becker's deposition, but objects to a wholesale extension of discovery deadline. EAC also
5 states Becker has not served any written discovery or taken any depositions; in fact, with
6 the exception of Smith, Becker has not attempted to schedule any depositions.

7 EAC points out that Becker's extension request is "the first time since this matter was
8 filed that Plaintiff has indicated that she may serve written discovery requests." Response
9 (Doc. 39, p. 2). EAC argues Becker does not indicate what discovery she intends to
10 propound, Becker does not offer any reason why written discovery was not served earlier,
11 and Becker's reasons as to why discovery has not been completed within the deadline are
12 insufficient to constitute good cause.

13 Further, although counsel for Becker submitted her Notice of Appearance on March
14 20, 2025, EAC asserts counsel's firm has been counsel of record since this litigation began
15 and counsel has been active in the case since early January. *See* Jan.10, 2025, Email,
16 Response, Ex. 2 (Doc. 39-1). EAC also points out that it had previously agreed to an
17 extension, Jan. 14, 2025, Stipulation (Doc. 30) and that the trial referenced by Becker's
18 counsel is *after* the discovery deadline of May 9, 2025, Jan. 15, 2025, Order (Doc. 31).
19 EAC asserts good cause has not been shown.

20 As summarized by another district court:

21 The Advisory Committee Notes to Rule 16 explain that the "[t]he court may modify
22 the schedule on a showing of good cause if it cannot reasonably be met despite the
23 diligence of the party seeking the extension." Fed.R.Civ.P. 16 advisory committee's
24 notes to 1983 amendment.

25 In determining whether a party has been diligent under Rule 16's "good cause"
26 standard, courts within the Ninth Circuit ask whether the moving party has shown the
27 following three factors: (1) diligence in helping the Court create a workable Rule
28 16 order; (2) noncompliance with a Rule 16 deadline occurred or will occur, despite
the moving party's diligent efforts to comply, because of the development of matters
not reasonably foreseeable or anticipated at the time of the Rule 16 scheduling
conference; and (3) diligence in seeking amendment of the Rule 16 order, once it
was apparent the moving party could not comply with the scheduling order.

1 *ISA Plus, LLC v. Prehired LLC*, No. 3:22-CV-01211-JAH-JLB, 2024 WL 4403706, at *1
2 (S.D. Cal. Oct. 3, 2024), *citations omitted*.

3 Indeed, the "[p]arties must 'diligently attempt to adhere to [the] schedule throughout
4 the subsequent course of the litigation.'" *Trejo v. City of Shafter*, 2011 WL 6130894, at *1
5 (E.D.Cal. Dec. 8, 2011), *quoting Jackson v. Laureate, Inc.*, 186 F.R.D. 605, 608 (E.D. Cal.
6 1999). However, "carelessness is not compatible with a finding of diligence and offers no
7 reason for a grant of relief." *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th
8 Cir. 1992), *quoting* Fed.R.Civ.P. 16 advisory committee's note. Finally, while "the existence
9 or degree of prejudice to the party opposing the modification might supply additional
10 reasons to deny a motion, the focus of the inquiry is upon the moving party's reasons for
11 seeking modification." *Id.*, *citation omitted*. "If that party was not diligent, the inquiry
12 should end." *Id.*

13 The parties assisted in creating a workable scheduling order and, it appears, worked
14 together to obtain an extension of the deadlines. Counsel for Becker refers to only learning
15 of the need to request discovery of undisclosed documents (and possible follow-up
16 depositions) without specifying the type of information discovery will be sought. Parties
17 are required to disclose, without awaiting a discovery request, "a copy—or a description by
18 category and location—of all documents, electronically stored information, and tangible
19 things that the disclosing party has in its possession, custody, or control and may use to
20 support its claims or defenses, unless the use would be solely for impeachment[.]"
21 Fed.R.Civ.P. 26(a)(1)(A)(ii). Considering the liberally applied good cause standard, the
22 Court finds there is no basis to conclude the documents at issue would be solely used for
23 impeachment. In light of that apparent lack of required disclosure, it appears counsel for
24 Becker acted diligently. Further, the Court has no reason to not accept counsel's assertion
25 that prior counsel unexpectedly left the firm. It also appears counsel for Becker diligently
26 sought amendment of the scheduling order after learning on May 1, 2025, of the need to
27 request discovery.

Accordingly, IT IS ORDERED:

2. The following deadlines are modified as follows:

c. Joint Proposed Pretrial Order
(If no dispositive motion is filed.)

DATED this 22nd day of May, 2025.

Cindy K. Jorgenson
United States District Judge